# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/551,102 | 08/14/2006 | Anthony Scott Oddo | 60136.0106USWO | 4310 |

94140          7590          09/28/2010
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| EXAMINER |
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| LOFTIS, JOHNNA RONEE |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3624 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/28/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *31 August 2010*.
2a)☐ This action is **FINAL**.          2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,43-47,49-52 and 60-67* is/are pending in the application.
      4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1,43-47,49-52 and 60-67* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
      Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
      Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
      a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
      * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
      Paper No(s)/Mail Date *8/31/10*.

4) ☐ Interview Summary (PTO-413)
      Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

## DETAILED ACTION

1.      The following is a non-final office action upon examination of application number

10551102.  Claims 1, 43-47, 49-52 and 60-67 are pending and have been examined on the merits

discussed below.

### Response to Arguments

2.      Applicant's arguments with respect to claims have been considered but are moot in view

of the new ground(s) of rejection.

### Information Disclosure Statement

3.      The information disclosure statement (IDS) submitted on 8/31/10 is in compliance with

the provisions of 37 CFR 1.97.  Accordingly, the information disclosure statement is being

considered by the examiner.

### Claim Rejections - 35 USC § 102

4.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

5.      Claims 1, 43-47, 49-52, 60, 62, 63 and 65-67 rejected under 35 U.S.C. 102(e) as being

anticipated by Hofmann et al, US 7328216.

As per claim 1, Hofmann et al teaches providing, by a computer, a database containing a

plurality of user input pattern profiles representing a group of users of a terminal device, wherein

the computer communicates with the terminal device over a network, the network comprising

one or more of the Internet and a nodal television distribution network, wherein each user of the

group is associated with one of the plurality of user input pattern profiles; detecting a user input

pattern based upon use of the terminal device by a current user; dynamically matching the user

input pattern of the current user with one of the user input pattern profiles contained in the

database; identifying the current user based upon dynamic matching of the user input pattern

generated by the current user with one of the user input pattern profiles; processing each user

input pattern profile to identify a demographic type; providing a plurality of biometric behavior

models wherein each biometric behavior model identifies a unique demographic type; comparing

each user input pattern profile against the plurality of biometric behavior models to match each

user input pattern profile with one of the biometric behavior models such that each user input

pattern profile is correlated with one demographic type; and generating an audience analytic

based upon the identified demographic types. (see abstract; columns 17 and 18 wherein user

input is collected based on usage of a terminal device; user profiles are detected and matched

with previously stored profiles which considers demographic information.  the user profiles are

used to generate an analysis of users to determine interests, recommendations, etc.)

2-42. (canceled)

As per claim 43, Hofmann et al teaches the user input pattern of the current user comprises clickstream data (column 17, lines 1-20).

As per claim 44, Hofmann et al teaches the clickstream data relates to particular Web sites visited by the user or the duration of visits to the Web sites (column 17, lines 1-20).

As per claim 45, Hofmann et al teaches the database providing step comprises generating a user input pattern profile for each user based upon clickstream data generated by the user when using the terminal device (column 17, lines 1-20).

As per claim 46, Hofmann et al teaches the user input pattern comprises one or more of user keystroke data, mouse usage data and remote control usage data (column 17, lines 1-20).

As per claim 47, Hofmann et al teaches the terminal device comprises one of a computer and a set top box (column 17; abstract).

As per claim 48, Hofmann et al teaches the steps are implemented in a computer, and the computer communicates with the terminal device over a network; the network comprising one or more of the Internet and a nodal television distribution network (column 17).

As per claim 49, Hofmann et al teaches transmitting one or more of targeted content and targeted advertising to the user in accordance with the dynamically-matched user input pattern profile (column 17 information used to provide targeted recommendations).

As per claim 50, Hofmann et al teaches providing a database containing a plurality of user input pattern profiles representing a group of users of a terminal device, wherein each user of the group is associated with one of the plurality of user input pattern profiles; using one or more of a Bayes classifier algorithm and an affinity-day part algorithm to generate the plurality of user input pattern profiles; detecting a user input pattern based upon use of the terminal device

by a current user; dynamically matching the user input pattern of the current user with one of the

user input pattern profiles contained in the database; identifying the current user based upon

dynamic matching of the user input pattern generated by the current user with one of the user

input pattern profiles ; processing each user input pattern profile to identify a demographic type;

providing a plurality of biometric behavior models wherein each biometric behavior model

identifies a unique demographic type; comparing each user input pattern profile against the

plurality of biometric behavior models to match each user input pattern profile with one of the

biometric behavior models such that each user input pattern profile is correlated with one

demographic type; and generating an audience analytic based upon the identified demographic

types. (see abstract; column 8, the use of Bayes classifier algorithm; columns 17 and 18 wherein

user input is collected based on usage of a terminal device; user profiles are detected and

matched with previously stored profiles which considers demographic information. the user

profiles are used to generate an analysis of users to determine interests, recommendations, etc.)

As per claim 51, it is the system with means for performing the method of claim 50.

Therefore, the same art and rationale apply.

As per claim 52, it is the system with means for performing the method of claim 1.

Therefore, the same art and rationale apply.

As per claim 60, Hofmann et al teaches the terminal device comprises a computer

(column 17).

As per claim 62, Hofmann et al teaches the steps are implemented in a computer, and the

computer communicates with the terminal device over a network (column 17).

As per claim 63, Hofmann et al teaches the network comprises the Internet (column 17).

As per claim 66, Hofmann et al teaches transmitting targeted content to the current user

in accordance with the dynamically-matched user input pattern profile (column 17 the user

profiles are used to generate an analysis of users to determine interests, recommendations).

As per claim 67, Hofmann et al teaches transmitting targeted advertising to the current

user in accordance with the dynamically-matched user input pattern profile (column 17 the user

profiles are used to generate an analysis of users to determine interests, recommendations).

### *Claim Rejections - 35 USC § 103*

6.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains.  Patentability shall not be negatived by the
> manner in which the invention was made.

7.      Claims 61 and 64 rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann et

al, US 7328216.

As per claims 61 and 64, Hofmann et al does not explicitly teach the terminal device comprises a

television set top box and the network comprises a nodal television distribution network.

Examiner takes official notice that it is old and well known to collect data using a television set

top box over a nodal television distribution network.  It would have been obvious to one of

ordinary skill in the art at the time of the invention to incorporate collection of data using a

television set top box over a nodal television distribution network.  The sole difference between

the primary reference and the claimed subject matter is that the primary reference does not

disclose the "collection of data using a television set top box over a nodal television distribution

network" claimed. Since each individual element and its function are well known, the difference

between the claimed subject matter and the prior art rests not on any individual element or

function but in the very combination itself – that is in the substitution of the "nodal television

distribution network" for the "internet" of the primary reference.

Thus, the simple substitution of one known element for another producing a predictable

result renders the claim obvious.


### *Conclusion*

8.      The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

- Harvey, Bill. Better Television Audience Measurement through the research integration of set-top box data.

- Bloedorn, Eric; Mani, Inderjeet. Using NLP for Machine Learning of User Profiles.

- Good, Nathaniel; Schafer, J. Ben; Konstan, Joseph A.; Borchers, Al; Sarwar, Badrul; Herlocker, Jon; and Riedl, John. Combining Collaborative Filtering with Personal Agents for Better Recommendations.

- Balabanovic, Marko. An Adaptive Web Page Recommendation Service.

- Pazzani, Michael J. Framework for Collaborative, Content0Based and Demographic Filtering

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHNNA R. LOFTIS whose telephone number is (571)272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571-272-6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Johnna R Loftis/
Primary Examiner, Art Unit 3624